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C O N F I D E N T I A L SECTION 01 OF 03 BOGOTA 002306

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E.O. 12958: DECL: 03/09/2015  
TAGS: [PTER PHUM KJUS PREL CO](#)  
SUBJECT: GOC PRESENTS NEW DEMOBILIZATION LAW

REF: A. BOGOTA 1706  
[B](#). BOGOTA 1660

Classified By: Ambassador William B. Wood for reasons 1.4 (b) and (d).

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Summary  
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[1](#)1. (C) The GOC submitted to Congress on March 4, its revised Law for Justice and Peace, based on input from Peace Commissioner Restrepo, the Deputy Prosecutor General, "Uribista" congressmen, and others. Formal debate began in the Senate and House First Committees on March 8. The draft Law for Justice and Peace applies to members of an illegal armed group (IAG) who are guilty of major crimes. It imposes a five to eight year term of incarceration, mandatory reparations, and supervised parole for individuals who are fully investigated by the Prosecutor General's Office and meet specific requirements. These include demobilizing, ceasing all acts of intimidation and illegal activities, surrendering all illicit assets, and not having belonged to an organization created for the purpose of drug trafficking. The text states that failure to fulfill any of the conditions would result in revocation of benefits. Demobilizing individuals guilty only of membership in an IAG and lesser, related crimes will be pardoned under current legislation (Law 782). End Summary.

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GOC Revises Draft  
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[1](#)2. (C) The GOC revised its demobilization law based on input from the Peace Commissioner, the Deputy Prosecutor General (Vice Fiscal), "Uribista" Congressmen, and several others in an attempt to maximize support and address criticisms. Peace Commissioner Restrepo was particularly active in suggesting changes.

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Law 782  
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[1](#)3. (C) Demobilizing individuals fall into two groups: those implicated only in membership in an IAG and those implicated in major crimes. Law 782 authorizes the government to pardon demobilizing IAG members for their membership in the illegal organization and various lesser, related crimes, such as illegal possession of a firearm. Restrepo has repeatedly said that Law 782 effectively facilitates demobilization, and should remain in force.

[1](#)4. (U) According to Law 782, the Prosecutor General's Office ("Fiscalia") does a background check and interviews each demobilizing IAG member to determine if he is implicated in non-pardonable crimes. The interview is called a "version libre," or open statement. If the authorities confirm that the individual is only guilty of membership in an IAG and lesser, related crimes, he is placed on probation ("libertad condicional") for two years. If he commits another crime during this period, his pardon is revoked and he is arrested for the new crime and his pardoned crimes. After a successful two-year probation period, the individual is given definitive liberty.

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Law for Justice and Peace  
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[1](#)5. (U) The Law for Justice and Peace will apply to demobilized IAG members accused of major crimes. The basic

steps of the law are:

(1) The GOC submits the names of demobilizing individuals to a special unit of the Fiscalía. IAG members who demobilize collectively or individually as deserters are eligible.

(2) The Fiscalía opens an investigation and prosecution process against each individual, with assistance from the Judicial and Investigative Police. Each individual gives a "version libre" to the Fiscalía. The Fiscalía reports its findings to the Superior District Court ("Tribunal Superior de Distrito Judicial") responsible for the case.

(3) A chamber from the District Court issues a full sentence based on the normal criminal code and an alternative sentence for each individual. The alternative sentence includes five to eight years of confinement (including up to 18 months in a concentration zone) and required reparations.

(4) After completing time in confinement, the individual is on supervised parole for a length of time equal to twenty percent of his term of incarceration, equivalent to between one year and 19 months. During this time, he must report periodically to the District Court, report any change of address, not commit any crimes, and generally behave well.

(5) If the District Court chamber determines that an individual has fulfilled all the conditions of the law, including payment of reparations, he is given definitive liberty. According to the law's text, if he fails to meet any of the law's terms, his benefits are revoked and he will serve his original sentence according to the normal criminal code.

16. (C) The GOC included several important conditions in the law to ensure full compliance, prevent impunity, and facilitate implementation:

-- Eligibility Requirements: the individuals must have (1) demobilized or belonged to an IAG that agreed to demobilize and is fully dismantled; (2) surrendered all illicit assets; (3) turned over all minors; (4) ceased all illicit activities and interference in the free exercise of political rights and other public liberties; and (5) not have belonged to an IAG that was created for the purposes of drug trafficking or illicit enrichment.

-- Imprisonment: The sentence cannot be reduced by work or study. Regardless, all beneficiaries are required to work, study, and support demobilization and other peace initiatives while in confinement. The government will determine where the period of confinement is spent. All confinement centers must meet National Prison and Penitentiary Institute (INPEC) standards. Time spent in a concentration zone can count against the sentence for up to 18 months.

-- Failure to Confess: If, at any time, the Fiscalía determines that an individual is guilty of a crime which he did not include in his "version libre" or accept when accused by the Fiscalía, he will be tried and sentenced for the crime consistent with the normal criminal code. However, if the individual subsequently admits to the crime, he is still eligible for an alternative sentence.

-- Extradition: The GOC retained a clause allowing the alternative sentence to be served overseas. This is an added safeguard for our ability to extradite individuals eligible to benefit from the law. The GOC has repeatedly assured us that the law will not impede extradition.

-- Intimidation: The GOC added a stand-alone clause that if the individual attempts to corrupt or intimidate any government authority, he loses all benefits.

-- Reparations: The District Court determines material and symbolic reparations. The Inspector General's Office (Procuraduría) will create a special unit to verify that victims' rights are fully respected. This unit can receive input from NGOs. The GOC will also create a reparations fund, managed by the Social Solidarity Network (RSS). Regional commissions will be created to oversee local land and property reparations.

-- Oversight: The GOC will create a National Reparations and Reconciliation Commission to oversee the alternative sentencing and reparations process. The Commission can recommend revocation of benefits to the District Court if the individual fails to fulfill any of the law's conditions. The Commission will create a public report on the development and activities of IAGs.

-- Public Access: The District Court is responsible for recording all proceedings against each individual and guaranteeing public access. The Inspector General's Office will oversee the granting of public access.

-- Law 782: The law specifically states that anyone eligible

for pardon under Law 782 will not be dealt with by the Law  
for Justice and Peace.

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Next Steps  
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17. (C) The debate began in the Senate and House First  
Committees on March 8. The GOC is optimistic that a law will  
be passed as early as April or, at the latest, by June. The  
debate will be difficult given that nine other drafts have  
been presented, including Senator Rafael Pardo's  
well-publicized Law for Truth, Justice, and Reparations. The  
law deals with complex issues that could impact future peace  
processes with other IAGs for decades. See septel on  
Congressional views of and support for the law.  
WOOD

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